

REMARKS

Applicants have carefully considered the Examiner's Office Action. Applicants have amended herein claims 22-25. Such claim amendments do not add new subject matter to the present application and have antecedent basis. Applicants believe the claims currently pending are in condition for allowance and respectfully request reconsideration.

Claims 1-3, 5-7, 9-18 and 20 Rejected Under  
Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 1-3, 5-7, 9-18 and 20 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4-6, 12, 13 and 29 of U.S. Patent No. 6,624,359.

Applicants submit herewith a fully executed Terminal Disclaimer pursuant to 37 C.F.R. § 1.321(c) to overcome the actual rejection of claims 1-3, 5-7, 9-18 and 20 based on a nonstatutory double patenting rejection. Applicants respectfully submit that the cited patent, U.S. Patent No. 6,624,359, and the present application are commonly owned by the Assignee of U.S. Patent No. 6,624,359, Neptco Incorporated.

Applicants respectfully submit that the submission of the Terminal Disclaimer overcomes the Examiner's rejection of claims 1-3, 5-7, 9-18 and 20, and such rejection should be withdrawn accordingly.

Claims 4, 8, 19 and 21-25 Rejected Under  
Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 4, 8, 19 and 21-25 have been rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 29 of U.S. Patent No. 6,624,359 in view of U.S. Patent No. 6,288,340 to Arnould (hereinafter "Arnould"). Applicants respectfully traverse the rejection of claims 4, 8, 19 and 21-25 for the reasons provided below.

Claims 4, 8, 19 and 21 depend from independent claim 1. Independent claim 1 is directed to a tape for use within an interior defined by a cable jacket. The tape comprises

two or more elongated fin-like members joined along their edges. Each elongated fin-like member having a width extending radially from their edges and a length extending longitudinally parallel to and along their edges such that each pair of adjacent elongated fin-like members defines therebetween a channel. Each elongated fin-like member includes an inner layer of dielectric material disposed between a first layer of conductive material and a second layer of conductive material such that the layers of conductive material face each other within each channel.

Arnould discloses an electrical conductor cable. As shown in Fig. 2, the cable includes two composite tapes (22) and (24) to shield adjacent twisted pairs (18) and (20). Arnould refers to such tape as "Aluster" composite tape. Each Aluster tape comprises an aluminum film applied to a polyester film. (col. 3, lines 1-12).

Arnould, however, does not disclose, teach or suggest each section of such composite tape (whether tape (22) or (24) includes an inner layer of dielectric material disposed between a first layer of conductive material and a second layer of conductive material such that the layers of conductive material face each other within each channel. The configuration of each tape (22) and (24) of Arnould essentially comprises a layer of aluminum file applied to a layer of polyester film. Arnould does not disclose, teach or suggest a tape wherein a dielectric material is disposed between a first layer of conductive material and a second layer of conductive material. Therein is at least one patentable distinction between the tape of Arnould and the tape of claim 1.

In addition, Arnould does not provide a teaching or suggestion that would motivate one of ordinary skill in the art to modify the tape of Arnould to include members having a dielectric material disposed between a first and a second layer of conductive material such that the layers of conductive material face the channels defined by a pair of adjacent members. As the Examiner knows, obviousness is established where the prior art provides some teaching, suggestion or motivation, in the prior art references themselves and/or in the knowledge generally available to those of ordinary skill in the art, to modify the teachings of the prior art such that the subject matter of the claimed invention is achieved and, therefore, is obvious in view of such prior art. Arnould does not disclose, teach, suggest or otherwise

provide any motivation such that one of ordinary skill in the art would modify the tape disclosed by Arnould to achieve the tape of claim 1.

Thus, claim 1 is patentably distinguishable over Arnould. As noted above, claims 4, 8, 19 and 21 depend from claim 1 and are patentably distinguishable over Arnould for at least the same reasons.

In consideration of Applicants submission of a Terminal Disclaimer pursuant to 37 C.F.R. § 1.321(c) to overcome the rejection of claims 4, 8, 19 and 21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 29 of U.S. Patent No. 6,624, 359, and the foregoing discussion of Arnould, Applicants respectfully submit that the rejection of claims 4, 8, 19 and 21 should be withdrawn.

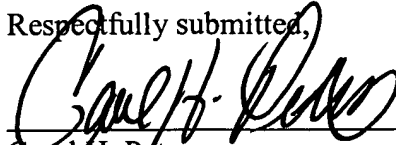
With respect to claims 22-25, claim 22 is an independent claim directed to a cable comprising, *inter alia*, a tape disposed within the tubular jacket. The tape has two or more elongated fin-like members joined along their edges. Each elongated fin-like member having a width extending radially from their edges and a length extending longitudinally parallel to and along their edges such that each pair of adjacent elongated fin-like members defines therebetween a channel. Each elongated fin-like member includes an inner layer of dielectric material disposed between a first layer of conductive material and a second layer of conductive material such that the layers of conductive material face each other within the channel.

Applicants respectfully submit that the same discussion provided above with respect to the patentability of claim 1 and dependent claims 4, 8, 19 and 21 in view Arnould applies to the rejection of claims 22-25; and claims 22-25 are patentably distinguishable over Arnould for substantially the same reasons. Accordingly, the rejection of claims 22-25 as being unpatentable under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 29 of U.S. Patent No. 6,624,350 in view of Arnould should be withdrawn.

Based upon the foregoing discussion, the application is believed to be in condition for allowance, and a notice to this effect is respectfully requested. Should the Examiner have any

questions concerning this response, the Examiner is invited to telephone the undersigned at the telephone number provided.

Respectfully submitted,



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